

Exhibit 21

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From: svcSMARTMFI
Sent: 12/29/2008 9:35:41 AM
To: SMART Core
Subject: SUMMING UP IRAQ'S YEAR OF ANTI-CORRUPTION

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Reference: A. BAGHDAD 00069
Pass Line: STATE FOR INL/C/CP, INL/I, NEA/I AND S/I
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FM AMEMBASSY BAGHDAD

TO RUEHC/SECSTATE WASHDC PRIORITY 1051

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SIPDIS

REVIEW AUTHORITY: Sharon Ahmad, Senior Reviewer

STATE FOR INL/C/CP, INL/I, NEA/I AND S/I

E.O. 12958: DECL: 12/29/2018

TAGS: KCOR, KCRM, PGOV, EAID, PREL, IZ

SUBJECT: SUMMING UP IRAQ'S YEAR OF ANTI-CORRUPTION

REF: A. BAGHDAD 00069

B. BAGHDAD 03903

C. BAGHDAD 02122

Classified By: Anti-Corruption Coordinator Lawrence Benedict,
reasons 1.4 (b) and (d).

1. (C) SUMMARY: Deputy Prime Minister Barham Salih declared in January that 2008 was to be Iraq's year of combating corruption but Iraq has made only incremental gains in doing so. Salih issued an 18-point plan to fight administrative corruption that was issued in the PM's name, of which four points have been completed at year's end. Iraq signed and ratified the UN Convention Against Corruption, an important step that will nonetheless probably require years for full implementation. The number of corruption cases that have gone to trial meanwhile remains very low and stagnant, while convictions remain limited almost exclusively to low-level administrative cases rather than high profile political

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figures. Iraq's entire legislative framework to combat corruption meanwhile remains in limbo as the three draft laws codifying the respective powers of the Commission on Integrity (COI), the Board of Supreme Audit (BSA), and the Inspectors General (IGs) remain stalled, awaiting a second reading before the Council of Representatives. A draft law to repeal Article 136(b), which enables ministers to quash at will criminal allegations against their employees including those for corruption, is expected in early 2009 but is likely to face pressure from the Prime Minister's Office. Despite the newfound courage of anti-corruption professionals such as the COI chief and the IG of Labor to speak out about Iraq's corruption and legal loopholes such as Article 136(b) that enable it, there remains a lack of serious commitment from the Iraqi leadership to combat this phenomenon. This, in turn, undermines the public's faith in government institutions, threatens rule of law, and deters potential foreign investment. Recognizing the failure of Iraq's leadership to pursue a top-down strategy, the Anti-Corruption Coordinator's Office (ACCO) has increasingly looked for opportunities to promote bottom-up anti-corruption efforts.

END SUMMARY.

ANYONE RECALL AN 18-POINT STRATEGY?

2. (E) Deputy Prime Minister Barham Salih declared 2008 to be Iraq's year of combating corruption at a January conference for Iraqi officials and the international community (ref A). In his public remarks, Salih issued a series of 18 points, touting them as Iraq's "national strategy" for fighting administrative corruption. These provisions ranged in scope from regulations that could be issued by Prime Ministerial decree to sweeping overhauls of Iraq's regulatory system. Many of the provisions contained language requiring not only the right laws and regulations on the books, but that "effective measures" be put in place to enforce them. Iraq completed four items, such as signing of the UN Convention Against Corruption and the completion of performance reviews of its IGs (ref B), but other more nebulous goals remain, such as "establishing an adequate mechanism to benefit from the reports issued by audit, inspection, and integrity agencies." [redacted] told us in November there had been little follow-up on the 18 points, saying "it takes time to pass laws and change systems." COI Commissioner Judge Raheem al-Ugailee, who told us in November he is in the process of writing a national strategy to fight corruption to be presented in early 2009, seemed only to vaguely recall, when reminded, that there had been a January 2008 18 point Q when reminded, that there had been a January 2008 18 point national strategy at all.

1.4(D)
B1

UN CONVENTION SIGNED, NOT IMPLEMENTED

3. (E) A key element within the 18 points was signing and ratifying the UN Convention Against Corruption (UN-CAC), accomplished in March and April 2008 respectively. although we assess full implementation will take many years. [redacted] told us in November he believed that by signing the agreement Iraq had fully met its provisions. There are 166 provisions in the UN-CAC which require Iraqi action in order to be fully compliant with the convention, of which ACCO estimates Iraq has completed about a third. Some

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fixes are either administrative or may be easily done by prime ministerial decree, such as providing the UN Secretary General with the names and addresses of the relevant anti-corruption authorities. Others, such as the requirement that "each state party in accordance with the fundamental principles of its domestic law endeavor to adopt, maintain, and strengthen systems that promote transparency and prevent conflicts of interest," will require long-term, comprehensive changes to Iraq's regulatory framework.

CONVICTION RATES STAGNATE

4. (C) COI Commissioner Judge Raheem al-Ugailee held his first press conference in November, in which he detailed the number of corruption cases in Iraq in 2008. At the time, al-Ugailee explained, "in Iraq the battle against terrorism has been tough and bloody but the battle against corruption will be more prolonged.... Big companies do not come to a corrupt environment. The foreign investor does not give his money to be stolen." As of late November, Iraq referred 3,242 cases to investigative judges, of which 337 were sent to trial, leading to 86 successful convictions. The cases under al-Ugailee mark a drop in quantity, but more importantly profile, from those under Radi al-Radi's reign of COI from 2005 to mid-2007. (Note and Comment: Most of the cases processed under Radi al-Radi were later overturned by the Amnesty Law, while al-Radi's zealous prosecution of corruption cases against high ranking individuals quickly earned him many enemies, for which he fled to the United States. End Note and Comment.) COI's case load in 2008 was almost entirely made up of mid- to low-level administrative corruption cases. At a December 22 symposium at the Ministry of Justice, al-Ugailee conceded that he gets a lot of cases involving low level corruption but that in practice "we ignore large corruption at high levels."

LEGISLATIVE LIMBO

5. (C) The three draft laws (ref C) that would codify the relationship between COI, BSA, and the IGs remain stalled, after the Prime Minister's Office pulled them back from the Council of Representatives (COR) before the completion of their second reading. [redacted] told us December 24 the laws are likely to be taken up by the COR in early 2009. Besides these laws, COI chief Judge Rahim al-Ugailee told us December 24 he had submitted an official recommendation to the COR Integrity Committee to eliminate Article 136(b), which enables ministers to quash at will criminal allegations including those for corruption within their respective ministries.

1.4(D)
B1

B1
1.4(B)
1.4(D)

BRAVE CIVIL SERVANTS SHOW GLIMMERS OF OUTSPOKENNESS

6. (C) Some Iraqi anti-corruption officials have shown a newfound outspokenness this year. At Raheem's debut press conference in November, he detailed the number of cases COI

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had investigated and sent on to investigative judges just as he later broadcast for the first time his recommendation to dissolve Article 136(b). In December, the IG for the Ministry of Labor and Social Affairs was the first of his colleagues to speak out to the Iraqi press about widespread abuses within his ministry (septel).

B1
1.4(B)
1.4(D)

7. (C) Anti-corruption enforcement nonetheless remains a risky business for Iraqi civil servants charged with the task. In 2008, assassination attempts were made against the IGs from the Ministries of Electricity, Finance, and Labor & Social Affairs. BSA investigators faced frequent harassment in the execution of their duties. A long-planned transfer of USG weapons to the COI for self-defense purposes likely led to the great strides in protecting COI investigators in 2008. Only one COI investigator was lost in 2008, in comparison to the roughly a dozen per year (37 total) between mid-2004 and 2007.

COMMENT: LOOKING BEYOND THE YEAR OF THE RAT

8. (C) Despite some incremental gains made this year and the candor of a few key anti-corruption enforcement professionals, there remains a lack of political commitment to seriously tackle corruption in Iraq. Some of this reluctance, we assess, is due to a lack of alternative financing for the disparate parties in Iraq's coalition government. With nearly all funding in Iraq coming from the central government's oil-generated allotments to various ministries, the political parties that effectively hold sway over individual ministries more often than not view their ministries as their party's personal piggy bank. (This phenomenon was most dangerous when militias held sway over parts of certain ministries, such as the Ministry of Health.) After being systematically discriminated against for generations, Shia and Kurdish groups in particular believe it is now their turn at the trough. Putting aside these structural constraints that would bedevil any Prime Minister, corruption endures because of a lack of commitment by the senior leadership to make anti-corruption a national priority. The fact alone that Maliki would maintain Dr. Adil Muhsin, who is widely reputed for his own brazen acts of corruption, in the position of the Prime Minister's Advisor for Anti-Corruption speaks to how seriously senior government officials take the issue. For even with the positive steps Iraq has taken in 2008, such as the signing of the UN-CAC, the GOI has not shown the necessary follow-through for meaningful implementation. At this point, the GOI seems content to rest on its laurels for having signed an important, albeit empty, agreement. Hope for better anti-corruption enforcement rests in the determination and professionalism of many of Iraq's anti-corruption enforcement

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officials, notably the heads of the COI and BSA and an increasingly professionalized cadre of IGs.

9. (C) Recognizing the lack of commitment from senior GOI leadership, ACCO has increasingly sought and will continue to seek more bottom-up rather than top-down solutions to battle corruption in Iraq. In December we launched an anti-corruption outreach campaign with the Public Affairs Section to raise awareness among the public and the media of how corruption undermines the public's faith in government institutions, threatens rule of law, and deters potential foreign investment. We are working with the Embassy's Rule of Law Section to incorporate anti-corruption related themes into the wildly successful "Mud House" theatrical program. The anti-corruption themed show recently played to full houses in Najaf and al Kut and is slated to tour around the rest of the country in 2009. Meanwhile, in partnership with the United Nations, we will expand these civic campaigns along with technical assistance to anti-corruption enforcement officials at the provincial level. Heeding the lesson of the forgotten 18 point strategy, the UN's first order of business will be to conduct the first statistically significant assessment of corruption in Iraq, which it will then use to formulate with Iraqi shareholders a comprehensive national anti-corruption strategy. The UN will also, in collaboration with the University of Utah, work with Iraqi anti-corruption agencies on implementation of the UN-CAC and advancing key anti-corruption legislation, including the three draft laws for the BSA, COI and IGs, as well as the proposal to eliminate Article 136(b).
CROCKER

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